

SENATE BILL NO. 260

INTRODUCED BY PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A FINAL DECISION IN A CONTESTED CASE PROCEEDING MUST BE ISSUED WITHIN 90 DAYS UNLESS GOOD CAUSE IS SHOWN ~~AND MUST BE REVISED TO CONFORM TO AN ORAL PRONOUNCEMENT OF A FINAL DECISION IF REQUESTED BY A PARTY IN WRITING WITHIN 30 DAYS AFTER FILING THE FINAL~~; PROVIDING A PROCEDURE FOR ISSUING A FINAL WRITTEN DECISION THAT DIFFERS FROM AN ORAL PRONOUNCEMENT OF A DECISION; REQUIRING MAIL NOTICE OF A DECISION; AMENDING SECTION 2-4-623, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-4-623, MCA, is amended to read:

"2-4-623. Final orders -- notification -- availability. (1) (a) A final decision or order adverse to a party in a contested case ~~shall~~ must be ~~issued within 90 days after a hearing;~~ in writing or stated in the record. A final decision ~~shall~~ must include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, ~~shall~~ must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A FINAL DECISION MUST BE ISSUED WITHIN 90 DAYS AFTER A CONTESTED CASE HEARING IS CONSIDERED TO BE SUBMITTED FOR A FINAL DECISION UNLESS, FOR GOOD CAUSE SHOWN, THE PERIOD IS EXTENDED FOR AN ADDITIONAL TIME NOT TO EXCEED 90 30 DAYS.

~~(b) If a written decision and an oral pronouncement of the decision as stated in the record conflict, either party may, within 30 days after filing of the written decision, request that the agency modify the written decision to conform to the oral pronouncement. The agency shall modify the written judgment to conform to the oral pronouncement at a hearing, and the parties must be present at the hearing unless a party waives the right to be present. The parties waive the right to request modification of the written decision if a request for modification of the written judgment is not filed within 30 days after the filing of the written decision.~~

(B) IF AN AGENCY INTENDS TO ISSUE A FINAL WRITTEN DECISION IN A CONTESTED CASE THAT GRANTS OR DENIES RELIEF AND THE RELIEF THAT IS GRANTED OR DENIED DIFFERS MATERIALLY FROM A FINAL AGENCY DECISION THAT WAS ORALLY ANNOUNCED ON THE RECORD, THE AGENCY MAY NOT ISSUE THE FINAL WRITTEN DECISION WITHOUT FIRST

1 PROVIDING NOTICE TO THE PARTIES AND AN OPPORTUNITY TO BE HEARD BEFORE THE AGENCY.

2 (2) Findings of facts ~~shall~~ must be based exclusively on the evidence and on matters officially noticed.

3 (3) Each conclusion of law ~~shall~~ must be supported by authority or by a reasoned opinion.

4 (4) If, in accordance with agency rules, a party submitted proposed findings of fact, the decision ~~shall~~
5 must include a ruling upon each proposed finding.

6 (5) Parties ~~shall~~ must be notified ~~either personally or~~ by mail of any decision or order. Upon request,
7 a copy of the decision or order ~~shall~~ must be delivered or mailed forthwith in a timely manner to each party and
8 to ~~his~~ each party's attorney of record.

9 (6) Each agency shall index and make available for public inspection all final decisions and orders,
10 including declaratory rulings under 2-4-501. ~~No such~~ An agency decision or order is not valid or effective against
11 any person or party ~~nor may~~ and it may not be invoked by the agency for any purpose until it has been made
12 available for public inspection as ~~herein~~ required in this section. This provision is not applicable in favor of any
13 person or party who has actual knowledge ~~thereof~~ of the decision or order or when a state statute or federal
14 statute or regulation prohibits public disclosure of the contents of a decision or order."

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16 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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18 NEW SECTION. SECTION 3. APPLICABILITY. [THIS ACT] APPLIES TO CONTESTED CASE HEARINGS COMMENCED
19 AFTER [THE EFFECTIVE DATE OF THIS ACT].

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